

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,  
v.  
RACOCO WILLIAMS,  
Defendant.

Criminal No. 17-246

**MEMORANDUM OPINION**

CONTI, Chief District Judge

In this criminal case filed against defendant Racoco Williams (“defendant”), the government via a motion to compel (ECF No. 40) seeks to obtain service of two motions filed under seal (ECF Nos. 31, 39) by defendant (ECF No. 30, 38). Defendant in two separate motions (ECF Nos. 29, 37) requested leave of court to file motions under seal. Defendant in the motions for leave to file under seal did not indicate or otherwise request that the motions to be filed under seal were ex parte motions. When the court granted those motions via orders entered on the Official Court Electronic Document Filing System (“CM/ECF”), a text entry was automatically generated by CM/ECF, which provided, among other things: “You would be required to serve the sealed document on counsel using traditional service methods.” (ECF Docket Entries dated 12/01/2017 and 2/20/2018.)

Because defendant did not indicate that the motions to be filed were ex parte motions, the court did not alter the CM/ECF-generated text with respect to defendant serving the sealed motions on the government in accordance with Federal Rule of Criminal Procedure 49(a). Both sealed motions filed by defendant, however, are labeled “ex parte” motions. (ECF Nos. 31, 40.) Based upon the content of those motions, the court agrees with defendant that the motions are ex parte

motions. Defendant, therefore, is not required to serve those motions on the government in accordance with Rule 49(a) (providing that service is not required of a written motion for ex parte motions).

The government is not without recourse. Defendant acknowledges that required disclosures to the government will be made at the time the government makes its disclosures to defendant prior to trial. If defendant wishes to file a sealed ex parte motion in the future, however, he should indicate that the motion is an ex parte motion.

The motion to compel (ECF No. 40) filed by the government will be denied. An appropriate order will be entered.

BY THE COURT,

Dated: April 13, 2018

/s/ JOY FLOWERS CONTI  
Joy Flowers Conti  
Chief United States District Judge